

Proposed Changes to the Model City Tax Code

1 **Section I. Model City Tax Code Section 100 is amended as follows to incorporate new**
2 **A.R.S. Section 42-6004(A)(8), with an effective date of October 1, 2007.**

3
4 **Sec. ___-100. General definitions.**

5 For the purposes of this Chapter, the following definitions apply:

6 "Assembler " means a person who unites or combines products, wares, or articles of
7 manufacture so as to produce a change in form or substance of such items without
8 changing or altering component parts.

9 "Broker" means any person engaged or continuing in business who acts for another for a
10 consideration in the conduct of a business activity taxable under this Chapter, and who
11 receives for his principal all or part of the gross income from the taxable activity.

12 "Business" includes all activities or acts, personal or corporate, engaged in or caused to
13 be engaged in with the object of gain, benefit, or advantage, either directly or indirectly,
14 but does not include either casual activities or sales, or the transfer of electricity from a
15 solar photovoltaic generation system to an electric utility distribution system.

16 "Business Day" means any day of the week when the Tax Collector's office is open for
17 the public to conduct the Tax Collector's business.

18 "Casual Activity or Sale" means a transaction of an isolated nature made by a person
19 who neither represents himself to be nor is engaged in a business subject to a tax
20 imposed by this Chapter. However, no sale, rental, license for use, or lease transaction
21 concerning real property nor any activity entered into by a business taxable by this
22 Chapter shall be treated, or be exempt, as casual. This definition shall include sales of
23 used capital assets, provided that the volume and frequency of such sales do not
24 indicate that the seller regularly engages in selling such property.

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1 "Combined Taxes" means the sum of all applicable Arizona Transaction Privilege and
2 Use Taxes; all applicable transportation taxes imposed upon gross income by this
3 County as authorized by Article III, Chapter 6, Title 42, Arizona Revised Statutes; and all
4 applicable taxes imposed by this Chapter.

5 "Commercial Property" is any real property, or portion of such property, used for any
6 purpose other than lodging or lodging space, including structures built for lodging but
7 used otherwise, such as model homes, apartments used as offices, etc.

8 "Communications Channel" means any line, wire, cable, microwave, radio signal, light
9 beam, telephone, telegraph, or any other electromagnetic means of moving a message.

10 "Construction Contracting" refers to the activity of a construction contractor.

11 "Construction Contractor" means a person who undertakes to or offers to undertake to,
12 or purports to have the capacity to undertake to, or submits a bid to, or does himself or
13 by or through others, construct, alter, repair, add to, subtract from, improve, move,
14 wreck, or demolish any building, highway, road, railroad, excavation, or other structure,
15 project, development, or improvement to real property, or to do any part thereof.

16 "Construction contractor" includes subcontractors, specialty contractors, prime
17 contractors, and any person receiving consideration for the general supervision and/or
18 coordination of such a construction project except for remediation contracting. This
19 definition shall govern without regard to whether or not the construction contractor is
20 acting in fulfillment of a contract.

21 "Delivery (of Notice) by the Tax Collector" means "receipt (of notice) by the taxpayer".

22 "Delivery, Installation, or Other Direct Customer Services" means services or labor,
23 excluding repair labor, provided by a taxpayer to or for his customer at the time of
24 transfer of tangible personal property; provided further that the charge for such labor or

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1 service is separately billed to the customer and maintained separately in the taxpayer's
2 books and records.

3 "Engaging", when used with reference to engaging or continuing in business, includes
4 the exercise of corporate or franchise powers.

5 "Equivalent Excise Tax" means either:

6 (1) a Privilege or Use Tax levied by another Arizona municipality upon the transaction in
7 question, and paid either to such Arizona municipality directly or to the vendor; or

8 (2) an excise tax levied by a political subdivision of a state other than Arizona upon the
9 transaction in question, and paid either to such jurisdiction directly or to the vendor;

10 or

11 (3) an excise tax levied by a Native American Government organized under the laws of
12 the federal government upon the transaction in question, and paid either to such
13 jurisdiction directly or to the vendor.

14 "Federal Government" means the United States Government, its departments and
15 agencies; but not including national banks or federally chartered or insured banks,
16 savings and loan institutions, or credit unions.

17 "Food" means any items intended for human consumption as defined by rules and
18 regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S.
19 Section 42-5106. Under no circumstances shall "food" include alcoholic beverages or
20 tobacco, or food items purchased for use in conversion to any form of alcohol by
21 distillation, fermentation, brewing, or other process. Under no circumstances shall "food"
22 include an edible product, beverage, or ingredient infused, mixed, or in any way
23 combined with medical marijuana or an active ingredient of medical marijuana.

24 "Hotel" means any public or private hotel, inn, hostelry, tourist home, house, motel,
25 rooming house, apartment house, trailer, or other lodging place within the City offering

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1 lodging, wherein the owner thereof, for compensation, furnishes lodging to any transient,
2 except foster homes, rest homes, sheltered care homes, nursing homes, or primary
3 health care facilities.

4 "Jet Fuel" means jet fuel as defined in A.R.S. Section 42-5351.

5 "Job Printing" means the activity of copying or reproducing an article by any means,
6 process, or method. "Job printing" includes engraving of printing plates, embossing,
7 copying, micrographics, and photo reproduction.

8 "Lessee" includes the equivalent person in a rental or licensing agreement for all
9 purposes of this Chapter.

10 "Lessor" includes the equivalent person in a rental or licensing agreement for all
11 purposes of this Chapter.

12 "Licensing (for Use)" means any agreement between the user ("licensee") and the owner
13 or the owner's agent ("licensor") for the use of the licensor's property whereby the
14 licensor receives consideration, where such agreement does not qualify as a "sale" or
15 "lease" or "rental" agreement.

16 "Lodging (Lodging Space)" means any room or apartment in a hotel or any other
17 provider of rooms, trailer spaces, or other residential dwelling spaces; or the furnishings
18 or services and accommodations accompanying the use and possession of said dwelling
19 space, including storage or parking space for the property of said tenant.

20 "Manufactured Buildings" means a manufactured home, mobile home or factory built
21 building, as defined in A.R.S. Section 41-2142.

22 "Manufacturer" means a person engaged or continuing in the business of fabricating,
23 producing, or manufacturing products, wares, or articles for use from other forms of
24 tangible personal property, imparting to such new forms, qualities, properties, and
25 combinations.

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1 "Medical marijuana" means "marijuana" used for a "medical use" as those terms are
2 defined in A.R.S. Section 36-2801.

3 "Mining and Metallurgical Supplies" means all tangible personal property acquired by
4 persons engaged in activities defined in Section ____-432 for such use. This definition
5 shall not include:

6 (1) janitorial equipment and supplies.

7 (2) office equipment, office furniture, and office supplies.

8 (3) motor vehicles licensed for use upon the highways of the State.

9 "Modifier" means a person who reworks, changes, or adds to products, wares, or articles
10 of manufacture.

11 "Nonprofit Entity" means any entity organized and operated exclusively for charitable
12 purposes, or operated by the Federal Government, the State, or any political subdivision
13 of the State.

14 "Occupancy (of Real Property)" means any occupancy or use, or any right to occupy or
15 use, real property including any improvements, rights, or interests in such property.

16 "Out-of-City Sale" means the sale of tangible personal property and job printing if all of
17 the following occur:

18 (1) transference of title and possession occur without the City; and

19 (2) the stock from which such personal property was taken was not within the corporate
20 limits of the City; and

21 (3) the order is received at a permanent business location of the seller located outside
22 the City; which location is used for the substantial and regular conduct of such
23 business sales activity. In no event shall the place of business of the buyer be
24 determinative of the situs of the receipt of the order.

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1 For the purpose of this definition it does not matter that all other indicia of business occur
2 within the City, including, but not limited to, accounting, invoicing, payments, centralized
3 purchasing, and supply to out-of-City storehouses and out-of-City retail branch outlets
4 from a primary storehouse within the City.

5 "Out-of-State Sale" means the sale of tangible personal property and job printing if all of
6 the following occur:

7 (1) The order is placed from without the State of Arizona; and

8 (2) the property is delivered to the buyer at a location outside the State; and

9 (3) the property is purchased for use outside the State.

10 "Owner-Builder" means an owner or lessor of real property who, by himself or by or
11 through others, constructs or has constructed or reconstructs or has reconstructed any
12 improvement to real property.

13 "Person" means an individual, firm, partnership, joint venture, association, corporation,
14 estate, trust, receiver, syndicate, broker, the Federal Government, this State, or any
15 political subdivision or agency of this State. For the purposes of this Chapter, a person
16 shall be considered a distinct and separate person from any general or limited
17 partnership or joint venture or other association with which such person is affiliated. A
18 subsidiary corporation shall be considered a separate person from its parent corporation
19 for purposes of taxation of transactions with its parent corporation.

20 "Prosthetic" means any of the following tangible personal property if such items are
21 prescribed or recommended by a licensed podiatrist, chiropractor, dentist, physician or
22 surgeon, naturopath, optometrist, osteopathic physician or surgeon, psychologist,
23 hearing aid dispenser, physician assistant, nurse practitioner or veterinarian:

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1 (1) any man-made device for support or replacement of a part of the body, or to increase
2 acuity of one of the senses. Such items include: prescription eyeglasses; contact
3 lenses; hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.

4 (2) insulin, insulin syringes, and glucose test strips sold with or without a prescription.

5 (3) hospital beds, crutches, wheelchairs, similar home health aids, or corrective shoes.

6 (4) drugs or medicine, including oxygen.

7 (5) equipment used to generate, monitor, or provide health support systems, such as
8 respiratory equipment, oxygen concentrator, dialysis machine.

9 (6) durable medical equipment which has a federal health care financing administration
10 common procedure code, is designated reimbursable by Medicare, can withstand
11 repeated use, is primarily and customarily used to serve a medical purpose, is
12 generally not useful to a person in the absence of illness or injury and is appropriate
13 for use in the home.

14 (7) ORTHODONTIC DEVICES DISPENSED BY A DENTAL PROFESSIONAL WHO IS
15 LICENSED UNDER TITLE 32, CHAPTER 11 TO A PATIENT AS PART OF THE
16 PRACTICE OF DENTISTRY.

17 ~~(7)~~(8) Under no circumstances shall "prosthetic" include medical marijuana regardless of
18 whether it is sold or dispensed pursuant to a prescription, recommendation, or
19 written certification by any authorized person.

20 "Qualifying Community Health Center"

21 (1) means an entity that is recognized as nonprofit under 501(c)(3) of the United States
22 Internal Revenue Code, that is a community-based, primary care clinic that has a
23 community-based board of directors and that is either:

24 (a) the sole provider of primary care in the community.

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1 (b) a nonhospital affiliated clinic that is located in a federally designated medically
2 underserved area in this State.

3 (2) includes clinics that are being constructed as qualifying community health centers.

4 "Qualifying Health Care Organization" means an entity that is recognized as nonprofit
5 under Section 501(c) of the United States Internal Revenue Code and that uses, saves
6 or invests at least eighty percent (80%) of all monies that it receives from all sources
7 each year only for health and medical related educational and charitable services, as
8 documented by annual financial audits prepared by an independent certified public
9 accountant, performed according to generally accepted accounting standards and filed
10 annually with the Arizona Department of Revenue. Monies that are used, saved or
11 invested to lease, purchase or construct a facility for health and medical related
12 education and charitable services are included in the eighty percent (80%) requirement.

13 "Qualifying Hospital " means any of the following:

14 (1) a licensed hospital which is organized and operated exclusively for charitable
15 purposes, no part of the net earnings of which inures to the benefit of any private
16 shareholder or individual.

17 (2) a licensed nursing care institution or a licensed residential care institution or a
18 residential care facility operated in conjunction with a licensed nursing care institution
19 or a licensed kidney dialysis center, which provides medical services, nursing
20 services or health related services and is not used or held for profit.

21 (3) a hospital, nursing care institution or residential care institution which is operated by
22 the federal government, this State or a political subdivision of this State.

23 (4) a facility that is under construction and that on completion will be a facility under
24 subdivision (1), (2) or (3) of this paragraph.

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1 "Receipt (of Notice) by the Taxpayer>" means the earlier of actual receipt or the first
2 attempted delivery by certified United States mail to the taxpayer's address of record
3 with the Tax Collector.

4 "Remediation" means those actions that are reasonable, necessary, cost-effective and
5 technically feasible in the event of the release or threat of release of hazardous
6 substances into the environment such that the waters of the State are or may be
7 affected, such actions as may be necessary to monitor, assess and evaluate such
8 release or threat of release, actions of remediation, removal or disposal of hazardous
9 substances or taking such other actions as may be necessary to prevent, minimize or
10 mitigate damage to the public health or welfare or to the waters of the State which may
11 otherwise result from a release or threat of release of a hazardous substance that will or
12 may affect the waters of the State. Remediation activities include the use of
13 biostimulation with indigenous microbes and bioaugmentation using microbes that are
14 nonpathogenic, nonopportunistic and that are naturally occurring. Remediation activities
15 may include community information and participation costs and providing an alternative
16 drinking water supply.

17 "Rental Equipment" means tangible personal property sold, rented, leased, or licensed
18 to customers to the extent that the item is actually used by the customer for rental, lease,
19 or license to others; provided that:

20 (1) the vendee is regularly engaged in the business of renting, leasing, or licensing such
21 property for a consideration; and

22 (2) the item so claimed as "rental equipment" is not used by the person claiming the
23 exemption for any purpose other than rental, lease, or license for compensation, to
24 an extent greater than fifteen percent (15%) of its actual use.

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1 "Rental Supply" means an expendable or nonexpendable repair or replacement part sold
2 to become part of "rental equipment", provided that:

3 (1) the documentation relating to each purchased item so claimed specifically itemizes to
4 the vendor the actual item of "rental equipment" to which the purchased item is
5 intended to be attached as a repair or replacement part; and

6 (2) the vendee is regularly engaged in the business of renting, leasing, or licensing such
7 property for a consideration; and

8 (3) the item so claimed as "rental equipment" is not used by the person claiming the
9 exemption for any purpose other than rental, lease, or license for compensation, to
10 an extent greater than fifteen percent (15%) of its actual use.

11 "Repairer" means a person who restores or renews products, wares, or articles of
12 manufacture.

13 "Resides within the City" means in cases other than individuals, whose legal addresses
14 are determinative of residence, the engaging, continuing, or conducting of regular
15 business activity within the City.

16 "Restaurant" means any business activity where articles of food, drink, or condiment are
17 customarily prepared or served to patrons for consumption on or off the premises, also
18 including bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the
19 purposes of this Chapter, a "fast food" business, which includes street vendors and
20 mobile vendors selling in public areas or at entertainment or sports or similar events,
21 who prepares or sells food or drink for consumption on or off the premises is considered
22 a "restaurant", and not a "retailer".

23 "Retail Sale (Sale at Retail)" means the sale of tangible personal property, except the
24 sale of tangible personal property to a person regularly engaged in the business of
25 selling such property.

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1 "Retailer" means any person engaged or continuing in the business of sales of tangible
2 personal property at retail.

3 "Sale" means any transfer of title or possession, or both, exchange, barter, conditional or
4 otherwise, in any manner or by any means whatsoever, including consignment
5 transactions and auctions, of property for a consideration. "Sale" includes any
6 transaction whereby the possession of such property is transferred but the seller retains
7 the title as security for the payment of the price. "Sale" also includes the fabrication of
8 tangible personal property for consumers who, in whole or in part, furnish either directly
9 or indirectly the materials used in such fabrication work.

10 "Solar Daylighting" means a device that is specifically designed to capture and redirect
11 the visible portion of the solar beam, while controlling the infrared portion, for use in
12 illuminating interior building spaces in lieu of artificial lighting.

13 "Solar Energy Device" means a system or series of mechanisms designed primarily to
14 provide heating, to provide cooling, to produce electrical power, to produce mechanical
15 power, to provide solar daylighting or to provide any combination of the foregoing by
16 means of collecting and transferring solar generated energy into such uses either by
17 active or passive means, including wind generator systems that produce electricity. Solar
18 energy systems may also have the capability of storing solar energy for future use.

19 Passive systems shall clearly be designed as a solar energy device, such as a trombe
20 wall, and not merely as a part of a normal structure, such as a window.

21 "Speculative Builder" means either:

22 (1) an owner-builder who sells or contracts to sell, at anytime, improved real property (as
23 provided in Section ___-416) consisting of:

24 (a) custom, model, or inventory homes, regardless of the stage of completion of such
25 homes; or

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- 1 (b) improved residential or commercial lots without a structure; or
2 (2) an owner-builder who sells or contracts to sell improved real property, other than
3 improved real property specified in subsection (1) above:
4 (a) prior to completion; or
5 (b) before the expiration of twenty-four (24) months after the improvements of the
6 real property sold are substantially complete.

7 "Substantially Complete" means the construction contracting or reconstruction
8 contracting:

- 9 (1) has passed final inspection or its equivalent; or
10 (2) certificate of occupancy or its equivalent has been issued; or
11 (3) is ready for immediate occupancy or use.

12 "Supplier" means any person who rents, leases, licenses, or makes sales of tangible
13 personal property within the City, either directly to the consumer or customer or to
14 wholesalers, jobbers, fabricators, manufacturers, modifiers, assemblers, repairers, or
15 those engaged in the business of providing services which involve the use, sale, rental,
16 lease, or license of tangible personal property.

17 "Tax Collector" means the _____ or his designee or agent for all
18 purposes under this Chapter.

19 "Taxpayer" means any person liable for any tax under this Chapter.

20 "Taxpayer Problem Resolution Officer" means the individual designated by the City to
21 perform the duties identified in Sections ____-515 and ____-516. In cities with a population
22 of 50,000 or more, the Taxpayer Problem Resolution Officer shall be an employee of the
23 City. In cities with a population of less than 50,000, the Taxpayer Problem Resolution
24 Officer need not be an employee of the City. Regardless of whether the Taxpayer
25 Problem Resolution Officer is or is not an employee of the City, the Taxpayer Problem

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1 Resolution Officer shall have substantive knowledge of taxation. The identity of and
2 telephone number for the Taxpayer Problem Resolution Officer can be obtained from the
3 Tax Collector.

4 "Telecommunication Service" means any service or activity connected with the
5 transmission or relay of sound, visual image, data, information, images, or material over
6 a communications channel or any combination of communications channels.

7 "Transient" means any person who either at the person's own expense or at the expense
8 of another obtains lodging space or the use of lodging space on a daily or weekly basis,
9 or on any other basis for less than thirty (30) consecutive days.

10 "Utility Service" means the producing, providing, or furnishing of electricity, electric lights,
11 current, power, gas (natural or artificial), or water to consumers or ratepayers.

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Section II. Model City Tax Code Section 445 is amended as follows to incorporate new A.R.S. Section 42-6004(A)(12), with an effective date of July 1, 2013.

Sec. ___-445. Rental, leasing, and licensing for use of real property.

(a) The tax rate shall be at an amount equal to _____ percent (___%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the City for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the City for a consideration including any improvements, rights, or interest in such property; provided further that:

(1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.

(2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.

(3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section ___-470.

(b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.

(c) Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.

(d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the

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1 business of providing or furnishing utility or telecommunication services are exempt
2 from the tax imposed by this Section.

3 ****((e)** Exempt from the tax imposed by this Section is gross income derived from the
4 rental, leasing, or licensing for use of real property to a qualifying hospital, qualifying
5 community health center or a qualifying health care organization, except when the
6 property so rented, leased, or licensed is for use in activities resulting in gross
7 income from unrelated business income as that term is defined in 26 U.S.C. Section
8 512.

9 **Model Option #4:**

10 (e) (Reserved) (Also See Peoria City Page)**

11 (f) A person who has less than three (3) apartments, houses, trailer spaces, or other
12 lodging spaces rented, leased or licensed or available for rent, lease, or license
13 within the State and no units of commercial property for rent, lease, or license within
14 the State, is not deemed to be in the rental business, and is therefore exempt from
15 the tax imposed by this Section on such income. However, a person who has one (1)
16 or more units of commercial property is subject to the tax imposed by this Section on
17 rental, lease and license income from all such lodging spaces and commercial units
18 of real estate even though said person may have fewer than three (3) lodging
19 spaces.

20 **** (Model Option #5A:**

21 (f) A person who has less than two (2) apartments, houses, trailer spaces, or other
22 lodging spaces rented, leased or licensed or available for rent, lease, or license
23 within the State and no units of commercial property for rent, lease, or license within
24 the State, is not deemed to be in the rental business, and is therefore exempt from
25 the tax imposed by this Section on such income. However, a person who has one (1)

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1 or more units of commercial property is subject to the tax imposed by this Section on
2 rental, lease and license income from all such lodging spaces and commercial units
3 of real estate even though said person may have fewer than two (2) lodging
4 spaces.)**

5 **OR**

6 **** (Model Option #5B:**

7 (f) (Reserved)**

8 (g) (Reserved)

9 **++ (Local Option #R:**

10 (g) Single-unit/single-tenant rental, leasing, or licensing. A person who has only one unit
11 of commercial property rented or available for rent, lease, or license shall be deemed
12 not to be in the business of rental, leasing, or licensing of real property, as provided
13 by Regulation, and further provided that both of the following conditions exist:
14 (1) such lessor has income from any other source; and
15 (2) the scope and degree of rental activity clearly indicates that it is an investment
16 rather than a business activity of the lessor.)++

17 (h) (Reserved)

18 **++ (Local Option #S:**

19 (h) Except as may be provided in another Section of this Chapter, the tax prescribed by
20 this Section shall not include gross income from the rental, leasing, or licensing of
21 lodging or lodging space to an individual who resides therein.

22 **OR**

23 (h) The tax prescribed by this Section shall not include gross income from the rental,
24 leasing, or licensing of lodging or lodging space to an individual who resides
25 therein.)++

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1 (i) (Reserved)

2 **++(Local Option #T:**

3 (i) Exempt from the tax imposed by this Section is gross income derived from the rental,
4 leasing, or licensing of real property to a corporation; provided that the lessor's
5 aggregate holdings in the lessee corporation amount to at least eighty percent (80%)
6 of the voting stock of the lessee corporation.)++

7 (j) Exempt from the tax imposed by this Section is gross income derived from the
8 activities taxable under Section ____-444 of this code.

9 **OR**

10 (j) (Reserved) (See Glendale city page)

11 (k) (Reserved)

12 (l) (Reserved)

13 (m) (Reserved)

14 **++(Local Option #OO:**

15 (m) Notwithstanding the other provisions of this section, the tax imposed by this section
16 does not apply to the rental, leasing or licensing for use of commercial property.)++

17 (n) Notwithstanding the provisions of Section __-200(b), the fair market value of one (1)
18 apartment, in an apartment complex provided rent free to an employee of the
19 apartment complex is not subject to the tax imposed by this Section. For an
20 apartment complex with more than fifty (50) units, an additional apartment provided
21 rent free to an employee for every additional fifty (50) units is not subject to the tax
22 imposed by this Section.

23 (o) Income derived from incarcerating or detaining prisoners who are under the
24 jurisdiction of the United States, this State or any other state or a political subdivision

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1 of this State or of any other state in a privately operated prison, jail or detention
2 facility is exempt from the tax imposed by this Section.

3 (p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis
4 facility to patients of such facilities for the use of rooms or other real property during
5 the course of their treatment by such facilities are exempt.

6 (q) Charges to patients receiving "personal care" or "directed care", by any licensed
7 assisted living facility, licensed assisted living center or licensed assisted living home
8 as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and
9 Title 9 of the Arizona Administrative Code are exempt.

10 (r) Income received from the rental of any "low-income unit" as established under
11 Section 42 of the Internal Revenue Code, including the low-income housing credit
12 provided by IRC Section 42, to the extent that the collection of tax on rental income
13 causes the "gross rent" defined by IRC Section 42 to exceed the income limitation for
14 the low-income unit is exempt. This exemption also applies to income received from
15 the rental of individual rental units subject to statutory or regulatory "low-income unit"
16 rent restrictions similar to IRC Section 42 to the extent that the collection of tax from
17 the tenant causes the rental receipts to exceed a rent restriction for the low-income
18 unit. This subsection also applies to rent received by a person other than the owner
19 or lessor of the low-income unit, including a broker. This subsection does not apply
20 unless a taxpayer maintains the documentation to support the qualification of a unit
21 as a low-income unit, the "gross rent" limitation for the unit and the rent received
22 from that unit.

23 ~~(s) The gross proceeds of sales or gross income derived from a commercial lease in~~
24 ~~which a reciprocal insurer or a corporation leases real property to an affiliated~~
25 ~~corporation is exempt. For the purposes of this paragraph:~~

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1 ~~(1) "Affiliated corporation" means a corporation that meets one of the following~~
2 ~~conditions:~~

3 ~~(A) The corporation owns or controls at least eighty per cent of the lessor.~~

4 ~~(B) The corporation is at least eighty per cent owned or controlled by the lessor.~~

5 ~~(C) The corporation is at least eighty per cent owned or controlled by a~~
6 ~~corporation that also owns or controls at least eighty per cent of the lessor.~~

7 ~~(D) The corporation is at least eighty per cent owned or controlled by a~~
8 ~~corporation that is at least eighty per cent owned or controlled by a reciprocal~~
9 ~~insurer.~~

10 ~~(2) For the purposes of subsection (1), ownership and control are determined by~~
11 ~~reference to the voting shares of a corporation.~~

12 ~~(3) "Reciprocal insurer" has the same meaning as prescribed in A.R.S. Section 20-~~
13 ~~762~~

14 (S) THE GROSS PROCEEDS OF A COMMERCIAL LEASE OF REAL PROPERTY
15 BETWEEN AFFILIATED COMPANIES, BUSINESSES, PERSONS OR RECIPROCAL
16 INSURERS ARE EXEMPT. FOR THE PURPOSES OF THIS PARAGRAPH:

17 (1) "AFFILIATED COMPANIES, BUSINESSES, PERSONS OR RECIPROCAL
18 INSURERS" MEANS THE LESSOR HOLDS A CONTROLLING INTEREST IN THE
19 LESSEE, THE LESSEE HOLDS A CONTROLLING INTEREST IN THE LESSOR,
20 AN AFFILIATED ENTITY HOLDS A CONTROLLING INTEREST IN BOTH THE
21 LESSOR AND THE LESSEE OR AN UNRELATED PERSON HOLDS A
22 CONTROLLING INTEREST IN BOTH THE LESSOR AND LESSEE.

23 (2) "CONTROLLING INTEREST" MEANS DIRECT OR INDIRECT OWNERSHIP
24 OF AT LEAST EIGHTY PER CENT OF THE VOTING SHARES OF A

Proposed Changes to the Model City Tax Code

CORPORATION OR OF THE INTERESTS IN A COMPANY, BUSINESS OR PERSON OTHER THAN A CORPORATION.

(3) "RECIPROCAL INSURER" HAS THE SAME MEANING AS PRESCRIBED IN A.R.S. SECTION 20-762.

~~(t) The gross proceeds of sales or gross income derived from a commercial lease in which a corporation leases real property to a corporation of which at least eighty per cent of the voting shares of each corporation are owned by the same shareholders is exempt.~~

Section III. Model City Tax Code Appendix VI, Article VII - Access to Care Tax, is added as follows, with an effective date of July 1, 2013.

ARTICLE VII. ACCESS TO CARE PROGRAM

SEC. 5-10-700. LEGISLATIVE INTENT.

THIS ORDINANCE IS ADOPTED FOR THE PURPOSE OF PROMOTING THE HEALTH, SAFETY AND GENERAL WELFARE OF THE RESIDENTS OF THE CITY OF

BY:

(A) ESTABLISHING A FUNDING SOURCE FOR THE NON-FEDERAL SHARE OF ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) PAYMENTS TO ACUTE CARE HOSPITALS WITHIN THE CITY OF _____ THAT PROVIDE SIGNIFICANT AMOUNTS OF

Proposed Changes to the Model City Tax Code

1 UNCOMPENSATED CARE TO UNINSURED AND LOW INCOME
2 PATIENTS, PURSUANT TO S.B. 1357;

3
4 (B) ESTABLISHING A FUNDING SOURCE FOR THE NON-FEDERAL
5 SHARE OF THE COST OF AN EXPANSION OF COVERAGE
6 THROUGH THE AHCCCS PROGRAM TO UNINSURED INDIVIDUALS,
7 PURSUANT TO S.B. 1357;

8
9 (C) PROMOTING ACCESS TO HEALTH CARE FOR RESIDENTS OF THE
10 CITY OF _____, INCLUDING LOW-INCOME, UNINSURED AND
11 OTHERWISE VULNERABLE POPULATIONS, BY ENSURING THE
12 FINANCIAL STABILITY AND VIABILITY OF ACUTE CARE HOSPITAL
13 SYSTEMS IN THE CITY; AND

14
15 (D) PROMOTING ECONOMIC DEVELOPMENT AND PROTECTING AND
16 EXPANDING JOBS IN THE HEALTH SECTOR AND RELATED FIELDS
17 WITHIN THE CITY OF _____.

18
19 SEC. 5-10-701. DEFINITIONS.

20
21 FOR THE PURPOSES OF THIS ARTICLE ONLY, THE FOLLOWING
22 DEFINITIONS SHALL APPLY:

23
24 “ACCESS TO CARE FUND” MEANS THE FUND ESTABLISHED PURSUANT
25 TO SECTION 5-10-705.

Proposed Changes to the Model City Tax Code

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“ACCESS TO CARE FUND REMAINDER (“ATC FUND REMAINDER”)” MEANS THE AMOUNT REMAINING IN THE ACCESS TO CARE FUND AFTER RESERVATION OF THE ADMINISTRATIVE COSTS PURSUANT TO SECTION 5-10-725(A).

“ACCESS TO CARE TAX (“ATC TAX”)” MEANS THE TAX IMPOSED PURSUANT TO SECTION 5-10-710.

“ACCESS TO CARE PROGRAM” MEANS THE PROGRAM CONSISTING OF THE ATC TAX, THE UNCOMPENSATED CARE PAYMENTS, AND RELATED EXPANDED AHCCCS COVERAGE, TO BE ESTABLISHED BY AHCCCS AND APPROVED BY CMS.

“ADMINISTRATIVE COSTS” MEANS THE COSTS TO THE TAX COLLECTOR OF COLLECTING, ADMINISTERING, ENFORCING AND TRANSFERRING THE ATC TAX, WHICH MAY INCLUDE: TIME, MATERIALS, OVERHEAD, AND LITIGATION COSTS.

“AHCCCS” MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, AN AGENCY OF THE STATE, WHICH ADMINISTERS THE MEDICAID PROGRAM IN ARIZONA UNDER TITLE XIX OF THE SSA.

“CFR” MEANS THE CODE OF FEDERAL REGULATIONS.

Proposed Changes to the Model City Tax Code

1 “CMS” MEANS THE CENTERS FOR MEDICARE AND MEDICAID SERVICES,
2 A FEDERAL AGENCY WITHIN THE U.S. DEPARTMENT OF HEALTH AND
3 HUMAN SERVICES.

4
5 “COVERAGE AMOUNT” MEANS AN AMOUNT SPECIFIED BY AHCCCS TO
6 PAY FOR THE NON-FEDERAL SHARE OF THE EXPANDED COVERAGE
7 THAT IS PART OF THE ACCESS TO CARE PROGRAM.

8
9 “DELINQUENCY DATE” MEANS THE DAY AFTER THE DUE DATE.

10
11 “DUE DATE” MEANS THAT DAY THAT IS 30 DAYS PRIOR TO THE END OF
12 EACH QUARTER DURING THE UC PAYMENT PERIOD, UNLESS
13 OTHERWISE SPECIFIED PURSUANT TO SECTION 5-10-715(E).

14
15 “EFFECTIVE DATE” MEANS 30 DAYS AFTER THE DATE OF PASSAGE OF
16 THIS ORDINANCE.

17
18 “INPATIENT DISCHARGES” MEANS THE ANNUAL NUMBER OF DAYS OF
19 INPATIENT HOSPITAL CARE PROVIDED TO PATIENTS, CALCULATED
20 PURSUANT TO SECTION 5-10-710.

21
22 “MEDICARE COST REPORT” MEANS THE HOSPITAL COST REPORT
23 REQUIRED FOR HOSPITALS PARTICIPATING IN THE MEDICARE
24 PROGRAM UNDER TITLE XVIII OF THE SSA, USING CMS FORM 2552-96.

25

Proposed Changes to the Model City Tax Code

1 "NON-FEDERAL SHARE" MEANS THE PORTION OF AHCCCS
2 EXPENDITURES THAT ARE NOT REIMBURSED BY THE FEDERAL
3 GOVERNMENT PURSUANT TO SECTION 1903 OF THE SSA AND ARE
4 REQUIRED TO BE PAID FOR FROM STATE OR LOCAL SOURCES,
5 PURSUANT TO SECTION 1902(A)(2) OF THE SSA.

6
7 "PARTICIPATING HOSPITAL" MEANS A HEALTH CARE INSTITUTION
8 LOCATED IN THE CITY OF _____ THAT IS LICENSED AS A
9 HOSPITAL BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES UNDER
10 ARIZONA REVISED STATUTES TITLE 36, CHAPTER 4, ARTICLE 2.

11
12 "QUARTER" MEANS A THREE MONTH PERIOD FROM JANUARY TO
13 MARCH, APRIL TO JUNE, JULY TO SEPTEMBER, OR OCTOBER TO
14 DECEMBER.

15
16 "S.B. 1357" MEANS SENATE BILL 1357, ENACTED BY THE ARIZONA
17 LEGISLATURE, DURING ITS FIFTIETH LEGISLATURE, FIRST REGULAR
18 SESSION OF 2011.

19
20 "SAFETY NET CARE POOL" MEANS THE FUNDING POOL ESTABLISHED
21 PURSUANT TO THE AHCCCS DEMONSTRATION PROJECT AUTHORIZED
22 UNDER SECTION 1115 OF THE SSA.
23

Proposed Changes to the Model City Tax Code

1 “SHORTFALL AMOUNT” MEANS THE AMOUNT OF ANY ATC TAX PAYMENT
2 THAT A PARTICIPATING HOSPITAL OWES BUT DOES NOT PAY BY THE
3 DUE DATE.

4
5 “SSA” MEANS THE SOCIAL SECURITY ACT.

6
7 “TRANSFER DATE” MEANS THE DATE THAT IS 15 DAYS PRIOR TO THE
8 END OF EACH QUARTER DURING THE UC PAYMENT PERIOD, UNLESS
9 AHCCCS SPECIFIES A DIFFERENT DATE, FOR TRANSFER OF FUNDS
10 FROM THE CITY TO AHCCCS PURSUANT TO SECTION 5-10-725.

11
12 “TRANSFER FUNDS” MEANS THE FUNDS TO BE TRANSFERRED TO
13 AHCCCS AS SPECIFIED IN SECTION 5-10-725(B).

14
15 “UNCOMPENSATED CARE PAYMENTS” MEANS PAYMENTS, TO BE
16 ADMINISTERED BY AHCCCS AND APPROVED BY CMS, TO PARTICIPATING
17 HOSPITALS TO REIMBURSE SOME OR ALL OF THEIR UNCOMPENSATED
18 CARE COSTS OF TREATING AHCCCS AND UNINSURED PATIENTS.

19
20 “UC PAYMENT TRANSFER AMOUNT” MEANS THE ATC FUND REMAINDER
21 MINUS THE COVERAGE AMOUNT , TO BE USED TO PAY FOR THE NON-
22 FEDERAL SHARE OF UNCOMPENSATED CARE PAYMENTS TO
23 PARTICIPATING HOSPITALS FOR THE CURRENT QUARTER, EXCEPT
24 THAT THE UC PAYMENT TRANSFER AMOUNT SHALL NOT EXCEED THE

Proposed Changes to the Model City Tax Code

1 AMOUNT SPECIFIED BY AHCCCS AS REQUIRED TO FUND
2 UNCOMPENSATED CARE PAYMENTS FOR THE QUARTER.

3
4 “UC PAYMENT PERIOD” MEANS THE PERIOD BEGINNING ON THE FIRST
5 DAY OF THE PERIOD FOR WHICH CMS APPROVES UNCOMPENSATED
6 CARE PAYMENTS FOR PARTICIPATING HOSPITALS AND ENDING ON THE
7 LAST DAY OF THE PERIOD FOR WHICH AHCCCS IS AUTHORIZED BY
8 STATE STATUTE AND CMS TO MAKE UNCOMPENSATED CARE
9 PAYMENTS TO PARTICIPATING HOSPITALS.

10
11 SEC. 5-10-705. CREATION OF ACCESS TO CARE FUND.

12
13 (A) AN ACCESS TO CARE FUND IS CREATED AS A RESTRICTED
14 SUBFUND WITHIN THE CITY. THE FUND SHALL BE USED TO
15 ACCOUNT FOR THE ACCESS TO CARE PROGRAM MONIES AND
16 SHALL CONTAIN ONLY THE FOLLOWING:

17
18 (1) PROCEEDS FROM ATC TAX PAYMENTS;

19
20 (2) PENALTIES AND INTEREST FOR LATE ATC TAX PAYMENTS;

21 AND

22
23 (3) MONIES REPAID TO THE CITY BY AHCCCS IN CONNECTION
24 WITH THE ATC TAX OR THE UNCOMPENSATED CARE
25 PAYMENTS.

Proposed Changes to the Model City Tax Code

1
2 (B) NO MONIES IN THE ACCESS TO CARE FUND SHALL REVERT TO,
3 OR LAPSE INTO ANY OTHER FUND, INCLUDING THE CITY
4 GENERAL FUND, EXCEPT THE AMOUNTS FOR ADMINISTRATIVE
5 COSTS AS PROVIDED FOR IN SECTION 5-10-720(A) AND AMOUNTS
6 FROM PENALTIES AND INTEREST AS PROVIDED FOR IN SECTION
7 5-10-720(E).

8
9 SEC. 5-10-710. IMPOSITION OF ACCESS TO CARE TAX AND RATE.

10
11 (A) AS OF THE EFFECTIVE DATE, THERE IS HEREBY LEVIED AND
12 IMPOSED AN ATC TAX EQUAL TO \$ _____ PER INPATIENT
13 DISCHARGE FOR EACH PARTICIPATING HOSPITAL.

14
15 (B) INPATIENT DISCHARGES FOR EACH PARTICIPATING HOSPITAL IS
16 CALCULATED AS THE SUM OF THE FOLLOWING LINES FROM
17 WORKSHEET S-3, PART I, COLUMN 15, OF THE PARTICIPATING
18 HOSPITAL'S MEDICARE COST REPORT LINES 12, 14 &14.01.

19
20 (C) ALL DATA REQUIRED TO CALCULATE THE ATC TAX AND ITS
21 APPLICATION SHALL BE DERIVED FROM EACH PARTICIPATING
22 HOSPITAL'S MEDICARE COST REPORTS FOR THE HOSPITAL
23 FISCAL YEAR ENDING BETWEEN APRIL 1, 2010 AND MARCH 31,
24 2011.

25

Proposed Changes to the Model City Tax Code

1 SEC. 5-10-715. COLLECTION OF TAX.

2
3 (A) EXCEPT AS SPECIFIED IN (E) AND SECTION 5-10-735, THE ATC TAX
4 SHALL BE DUE AND PAYABLE ON THE DUE DATE ON A
5 QUARTERLY BASIS WITH A TAX PAYMENT FOR EACH QUARTER
6 WITHIN THE UC PAYMENT PERIOD. EACH TAX PAYMENT SHALL
7 EQUAL ONE-FOURTH OF THE TOTAL AMOUNT CALCULATED
8 PURSUANT TO SECTION 5-10-710(A), EXCEPT THAT THE TAX
9 PAYMENT AMOUNT SHALL BE PRORATED IF THE UC PAYMENT
10 PERIOD BEGINS ON A DAY OTHER THAN THE FIRST DAY OF A
11 QUARTER OR ENDS ON A DAY OTHER THAN THE LAST DAY OF A
12 QUARTER, BASED ON THE NUMBER OF DAYS IN SUCH QUARTER
13 THAT ARE WITHIN THE UC PAYMENT PERIOD.

14
15 (B) IF THE UC PAYMENT PERIOD IS LONGER THAN ONE YEAR,
16 ADDITIONAL QUARTERLY TAX PAYMENTS SHALL BE DUE,
17 CALCULATED IN THE MANNER SPECIFIED IN (A).

18
19 (C) EACH PARTICIPATING HOSPITAL SHALL FILE AN ATC TAX FORM
20 WITH THE CITY IN SUCH FORM AND ON SUCH DATE AS THE TAX
21 COLLECTOR SHALL SPECIFY, PROVIDING THE DATA REQUIRED
22 TO DETERMINE THE AMOUNT OF THE ATC TAX PAYMENT DUE.
23 THE TAX COLLECTOR MAY REQUIRE THE TAX FORM TO BE
24 SUBMITTED PRIOR TO THE DATE ON WHICH ALL CONDITIONS
25 SPECIFIED IN SECTION 5-10-735 HAVE OCCURRED.

Proposed Changes to the Model City Tax Code

1
2 (D) IF ANY PARTICIPATING HOSPITAL FAILS TO REMIT THE FULL
3 AMOUNT OF THE TAX PAYMENT OWED BY THE DUE DATE, THE
4 TAX COLLECTOR SHALL PROMPTLY NOTIFY THE PARTICIPATING
5 HOSPITAL OF THE SHORTFALL AMOUNT. THE PARTICIPATING
6 HOSPITAL SHALL REMIT TO THE TAX COLLECTOR FORTHWITH
7 THE SHORTFALL AMOUNT ALONG WITH PENALTIES AND
8 INTEREST DUE PURSUANT TO SECTION 5-10-750.

9
10 (E) THE TAX COLLECTOR SHALL ADJUST THE DUE DATE(S) FOR ANY
11 ATC TAX PAYMENTS DUE WITHIN THE UC PAYMENT PERIOD
12 PRIOR TO CMS APPROVAL AS NECESSARY TO IMPLEMENT THE
13 ACCESS TO CARE PROGRAM AS SOON AS PRACTICABLE AFTER
14 CMS APPROVAL DESCRIBED IN SECTION 5-10-735 AND AS
15 AGREED TO WITH AHCCCS. THE TAX COLLECTOR SHALL
16 PROVIDE WRITTEN NOTICE TO THE PARTICIPATING HOSPITALS
17 INDICATING THE DUE DATE(S) FOR THE APPLICABLE TAX
18 PAYMENTS AT LEAST 5 DAYS PRIOR TO SUCH DUE DATE(S).

19
20 (F) THE TAX COLLECTOR SHALL ACCOUNT FOR ALL ATC TAX
21 PAYMENTS AND ALL SHORTFALL AMOUNTS REMITTED PURSUANT
22 TO SECTION 5-10-715(D) IN THE ACCESS TO CARE FUND.

23
24 SEC. 5-10-720. USE OF ACCESS TO CARE TAX FUND.
25

Proposed Changes to the Model City Tax Code

1 MONIES IN THE ACCESS TO CARE FUND MAY BE UTILIZED FOR THE
2 FOLLOWING PURPOSES:

3
4 (A) UP TO \$ _____ OF THE COLLECTED TAX PAYMENTS EACH
5 QUARTER MAY BE USED BY THE CITY TO COVER THE
6 ADMINISTRATIVE COSTS. SUCH AMOUNT MAY BE INCREASED BY
7 THE CITY UPON WRITTEN NOTICE TO THE PARTICIPATING
8 HOSPITALS 30 DAYS PRIOR TO THE NEXT TRANSFER DATE IF THE
9 CITY INCURS UNANTICIPATED COSTS INCLUDING COSTS FOR
10 ADMINISTRATION, LITIGATION OR BANKRUPTCY PROCEEDINGS
11 RELATED TO THE TAX.

12
13 (B) TO TRANSFER FUNDS TO AHCCCS PURSUANT TO SECTION 5-10-
14 725 AND AN INTERGOVERNMENTAL AGREEMENT FOR THE
15 PURPOSE OF PROVIDING LOCAL FUNDING FOR THE NON-
16 FEDERAL SHARE OF:

17
18 (1) UNCOMPENSATED CARE PAYMENTS TO PARTICIPATING
19 HOSPITALS; AND

20
21 (2) EXPANDED HEALTH CARE COVERAGE TO INDIVIDUALS
22 THROUGH AHCCCS.
23

Proposed Changes to the Model City Tax Code

1 (C) TO REFUND TO PARTICIPATING HOSPITALS ANY ATC TAX
2 OVERPAYMENT OR AMOUNTS OTHERWISE COLLECTED IN
3 ERROR;

4
5 (D) TO REFUND TO PARTICIPATING HOSPITALS PURSUANT TO
6 SECTION 5-10-745 ANY AMOUNTS REPAID BY AHCCCS TO THE
7 TAX COLLECTOR AFTER RECOUPMENT OF UNCOMPENSATED
8 CARE PAYMENTS FUNDED BY TAX PROCEEDS TRANSFERRED BY
9 THE CITY;

10
11 (E) WITH RESPECT ONLY TO PENALTIES AND INTEREST COLLECTED
12 PURSUANT TO SECTION 5-10-750, TO TRANSFER TO THE CITY'S
13 GENERAL FUND TO BE USED FOR ANY CITY-AUTHORIZED
14 PURPOSE OR ANY BUDGETED PURPOSE CONSISTENT WITH THE
15 GENERAL FUND RULES.

16
17 SEC. 5-10-725. TRANSFER TO AHCCCS.

18
19 (A) FROM THE ATC TAX PAYMENTS COLLECTED EACH QUARTER, THE
20 TAX COLLECTOR SHALL RETAIN THE ADMINISTRATIVE COSTS.

21
22 (B) FROM THE ATC FUND REMAINDER, THE TAX COLLECTOR SHALL
23 TRANSFER TO AHCCCS EACH QUARTER ON THE TRANSFER DATE
24 THE TRANSFER FUNDS, EXCEPT AS PROVIDED UNDER
25 SUBSECTIONS (C) OR (D). THE TRANSFER FUNDS ARE EQUAL TO

Proposed Changes to the Model City Tax Code

1 THE SUM OF: COVERAGE AMOUNT + UC PAYMENT TRANSFER
2 AMOUNT.

3
4 (C) UNDER NO CIRCUMSTANCES SHALL THE TAX COLLECTOR BE
5 REQUIRED TO TRANSFER A TOTAL AMOUNT OF TRANSFER FUNDS
6 GREATER THAN THE ATC FUND REMAINDER. IF THE TRANSFER
7 FUNDS REQUIRED UNDER SUBSECTION (B) EXCEED THE FUND
8 REMAINDER, THE UC PAYMENT TRANSFER AMOUNT SHALL BE
9 REDUCED SUCH THAT THE AMOUNT OF THE TRANSFER FUNDS
10 EQUALS THE ATC FUND REMAINDER.

11
12 (D) IN THE EVENT THAT THE ATC FUND REMAINDER IS GREATER
13 THAN THE TRANSFER FUNDS SUCH THAT THERE ARE AMOUNTS
14 REMAINING IN THE FUND AFTER A QUARTERLY TRANSFER, THE
15 TAX COLLECTOR SHALL RETURN TO THE PARTICIPATING
16 HOSPITALS WITHIN 15 DAYS AFTER THE TRANSFER DATE THEIR
17 PRO RATA SHARE OF THE ATC FUND REMAINDER BASED ON THE
18 ATC QUARTERLY TAX AMOUNTS PAID UNDER SECTION 5-10-
19 715(A). THE PRO-RATA SHARE SHALL BE BASED ON THE PRIOR
20 QUARTER. ADDITIONALLY, IN THE EVENT A PARTICIPATING
21 HOSPITAL OWES THE TAX COLLECTOR MONIES FOR THE
22 PREVIOUS OR CURRENT QUARTER, THE TAX COLLECTOR SHALL
23 OFFSET THAT PARTICIPATING HOSPITAL'S PRO-RATA SHARE BY
24 THE AMOUNT OWED.

Proposed Changes to the Model City Tax Code

1 (E) IN THE EVENT THAT A PARTICIPATING HOSPITAL OWES A
2 SHORTFALL AMOUNT PURSUANT TO SECTION 5-10-715(D), THE
3 TAX COLLECTOR SHALL NOT TRANSFER TO AHCCCS ANY SUCH
4 SHORTFALL AMOUNTS PAID UNTIL 95 BUSINESS DAYS AFTER
5 RECEIPT OF THE SHORTFALL AMOUNT FROM THE PARTICIPATING
6 HOSPITAL. THE TAX COLLECTOR SHALL TRANSFER SHORTFALL
7 AMOUNTS TO AHCCCS ON THE NEXT TRANSFER DATE AFTER THE
8 95 DAY PERIOD ALONG WITH THE TRANSFER FUNDS FOR THE
9 THEN-APPLICABLE QUARTER. IN THE CASE OF SHORTFALL
10 AMOUNTS FROM THE LAST ATC TAX PAYMENT OWED BEFORE
11 THE ATC TAX TERMINATES, THE TAX COLLECTOR SHALL
12 TRANSFER THE SHORTFALL AMOUNTS WITHIN 15 DAYS AFTER
13 THE 95 DAY PERIOD.

14
15 SEC. 5-10-730. NO IMPACT ON PATIENTS OR PAYERS.

16
17 PARTICIPATING HOSPITALS SHALL NOT PASS THE COST OF THE TAX ON
18 TO PATIENTS OR THIRD PARTY PAYERS LIABLE TO PAY FOR THE CARE ON A
19 PATIENT'S BEHALF.

20
21 SEC. 5-10-735. REQUIREMENTS FOR IMPLEMENTATION.

22
23 THE TAX SHALL NOT BE DUE OR PAYABLE UNLESS AND UNTIL ALL OF
24 THE FOLLOWING OCCURS:

Proposed Changes to the Model City Tax Code

1 (A) CMS APPROVES THE UNCOMPENSATED CARE PAYMENTS AND
2 THE ATC TAX; AND

3
4 (B) AHCCCS AGREES TO RETURN TO THE CITY THE NON-FEDERAL
5 SHARE OF ANY UNCOMPENSATED CARE PAYMENTS RECOUPED
6 BY AHCCCS FROM PARTICIPATING HOSPITALS, UNLESS SUCH
7 RECOUPED PAYMENTS ARE REDISTRIBUTED BY AHCCCS TO
8 OTHER PARTICIPATING HOSPITALS PURSUANT TO THE TERMS
9 AND CONDITIONS OF THE FEDERAL APPROVAL OF THE
10 UNCOMPENSATED CARE PAYMENTS; AND

11
12 (C) THE CITY ENTERS INTO AN INTERGOVERNMENTAL AGREEMENT
13 WITH AHCCCS.

14
15 SEC. 5-10-740. TERMINATION.

16
17 (A) THE ATC TAX SHALL TERMINATE ON SEPTEMBER 30, 2013,
18 UNLESS THE UC PAYMENT PERIOD EXTENDS BEYOND THAT DATE
19 DUE TO AN EXTENSION OF AHCCCS' AUTHORIZATION TO MAKE
20 UNCOMPENSATED CARE PAYMENTS TO PARTICIPATING
21 HOSPITALS AND AHCCCS' AUTHORIZATION TO ACCEPT CITY
22 FUNDS FOR THE NON-FEDERAL SHARE OF AHCCCS PAYMENTS
23 PURSUANT TO S.B. 1357. IN THE EVENT THAT THE ATC TAX
24 EXTENDS BEYOND SEPTEMBER 30, 2013, THE ATC TAX SHALL
25 TERMINATE ON THE EARLIEST OF:

Proposed Changes to the Model City Tax Code

1
2 (1) THE DATE ON WHICH AHCCCS' AUTHORIZATION TO MAKE
3 UNCOMPENSATED CARE PAYMENTS TO PARTICIPATING
4 HOSPITALS ENDS; OR

5
6 (2) THE DATE ON WHICH AHCCCS' AUTHORIZATION TO
7 ACCEPT CITY FUNDS FOR THE NON-FEDERAL SHARE OF
8 AHCCCS PAYMENTS PURSUANT TO S.B. 1357 EXPIRES; OR

9
10 (3) DECEMBER 31, 2013.

11
12 (B) THE ATC TAX SHALL TERMINATE PRIOR TO THE DATE IN
13 SUBSECTION (A) UPON ANY OF THE FOLLOWING CONDITIONS:

14
15 (1) THE ATC TAX IS DETERMINED NOT TO BE A PERMISSIBLE
16 SOURCE OF NON-FEDERAL SHARE FUNDING; OR

17
18 (2) THE ATC TAX IS OTHERWISE DETERMINED TO BE
19 UNLAWFUL UNDER CITY, STATE OR FEDERAL LAW; OR

20
21 (3) A STATEWIDE HOSPITAL TAX OR OTHER ASSESSMENT IS
22 ADOPTED AND TAKES EFFECT.

23
24 SEC. 5-10-745. IMPACT OF TERMINATION OR RECOUPMENT
25

Proposed Changes to the Model City Tax Code

1 (A) IN THE EVENT THAT THE AHCCCS REFUNDS ALL OR PART OF ANY
2 TRANSFERS MADE TO IT PURSUANT TO SECTION 5-10-725(B), THE
3 CITY SHALL RETURN TO THE PARTICIPATING HOSPITALS, WITHIN
4 15 DAYS OF RETURN OF THE FUNDS FROM AHCCCS , THEIR PRO
5 RATA SHARE OF THE RETURNED FUNDS BASED ON ATC TAX
6 AMOUNTS PAID UNDER SECTION 5-10-710.

7
8 (B) IN EVENT THAT THE ATC TAX TERMINATES UNDER SECTION 5-10-
9 740, THE TAX COLLECTOR SHALL REFUND TO EACH
10 PARTICIPATING HOSPITAL WITHIN 15 DAYS OF TERMINATION THE
11 PRO RATA PORTION OF ANY MONIES REMAINING IN THE ATC
12 FUND THAT HAVE NOT BEEN SPENT OR IRREVOCABLY
13 ALLOCATED FOR THEIR DESIGNATED PURPOSES.

14
15 SEC. 5-10-750. INTEREST AND PENALTIES.

16
17 (A) IN THE EVENT A PARTICIPATING HOSPITAL OWES A SHORTFALL
18 AMOUNT TO THE TAX COLLECTOR PURSUANT TO SECTION 5-10-
19 715(D), THE PARTICIPATING HOSPITAL MUST PAY INTEREST ON
20 SUCH SHORTFALL AMOUNT FROM THE DELINQUENCY DATE UNTIL
21 IT IS REMITTED TO THE TAX COLLECTOR. THE INTEREST RATE
22 SHALL BE DETERMINED PURSUANT TO SECTION 5-10-540.

23
24 (B) IN ADDITION TO INTEREST BEING ASSESSED UNDER SUBSECTION
25 (A), ANY PARTICIPATING HOSPITAL THAT FAILS TO PAY ANY OF

Proposed Changes to the Model City Tax Code

1 THE ATC TAX IMPOSED BY THIS ARTICLE WHICH WERE DUE OR
2 FOUND TO BE DUE BEFORE THE DELINQUENCY DATE SHALL BE
3 SUBJECT TO AND SHALL PAY TWO (2) PERCENT CIVIL PENALTIES
4 ON THE SHORTFALL AMOUNT.

5
6 (C) PENALTIES PROVIDED FOR UNDER SECTION 5-10-540 ARE NOT
7 APPLICABLE.

8
9 (D) PENALTIES AND INTEREST IMPOSED BY THIS SECTION ARE DUE
10 AND PAYABLE UPON NOTICE BY THE TAX COLLECTOR.

11
12 SEC. 5-10-755. EXAMINATION OF BOOKS AND RECORDS; FAILURE TO PROVIDE
13 RECORDS.

14
15 (A) THE TAX COLLECTOR AND THE PARTICIPATING HOSPITALS SHALL
16 HAVE ALL THE RIGHTS AND OBLIGATIONS AS STATED IN SECTION
17 5-10-510.

18
19 (B) NOTHING IN THIS ORDINANCE MAY BE READ AS A WAIVER OF ANY
20 RIGHTS THE TAX COLLECTOR MAY HAVE UNDER THE CODE OR
21 BY CITY CHARTER WITH REGARDS TO THE ABILITY TO ENFORCE
22 AND/OR COLLECT ALL MONIES OWED BY THE PARTICIPATING
23 HOSPITALS EXCEPT WHERE EXPRESSLY STATED.

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Proposed Changes to the Model City Tax Code

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(C) ALL OTHER PROVISIONS IN THE CODE OR CITY CHARTER ARE
APPLICABLE UNLESS EXPRESSLY STATED OTHERWISE.